

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
NOV 15 2011	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

1 MICHAEL E. STOBERSKI, ESQ.
Nevada Bar No. 004762
2 ZACHARY J. THOMPSON, ESQ.
Nevada Bar No. 011001
3 OLSON, CANNON, GORMLEY & DESRUISSEAU
9950 West Cheyenne Avenue
4 Las Vegas, Nevada 89129
(702) 384-4012 office
5 (702) 383-0701 fax
mstoberski@rocgd.com

6 Attorneys for Defendants RE/MAX REALTY
7 and JUDY ASHTON

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10 * * * *

11 JUDY KROSHUS; BILL ADAMSON; SHARON)
12 ADAMSON; PANFILO "PHIL" AGUILAR;)
13 DONNA AGUILAR; AIR TECH HEATING &)
14 AIR, a Division of Spracklin Homes; JEMMELY)
15 ALMARJO; LORILLEE BABCOCK; THOMAS)
16 BAILIE; AMANDA BAILIE; THOMAS and)
17 AMANDA BAILIE, individually and on behalf of)
18 their minor child, ELIZABETH BAILIE; JOHN)
19 BECK; COLEEN BECK; JOHN and COLEEN)
20 BECK, individually and on behalf of their minor)
21 child, SEANDRA BECK; BENNAFIT)
22 INVESTMENTS; DENNIS BLAIR; BEVERLY)
23 BLAIR; WILLIAM BORRELLI; RACINE)
24 BRADY-MARTINEZ; STEVE BRONAUGH;)
25 JENNIFER BRONAUGH; STEVE and)
26 JENNIFER BRONAUGH, individually and on)
27 behalf of their minor child, STERLING)
28 BRONAUGH; MARK CARR; JOHN CAULK;)
MARTINIQUE CAULK; JOHN and)
MARTINIQUE CAULK, individually and on)
behalf of their minor children, JARED HIRES)
CAULK, JOHN HIRES CAULK and TAYLOR)
HIRES CAULK; SCOTT CHAPMAN; JANET)
CHAPMAN; EVERETT A. CIRIO; TOM W.)
COOK II; KATHLEEN M. COOK; JAMES)
CRUTCHER; BRANDY CRUTCHER; JAMES)
and BRANDY CRUTCHER, individually and on)
behalf of their minor children, JAKE CRUTCHER)
and MACKINNON CRUTCHER; ANGELA)
DANIEL; WILLIAM T. DANIEL; ANGELA and)
WILLIAM T. DANIEL, individually and on)
behalf of their minor children, JULIANA)
DANIEL and VANCE DANIEL; DOUGLAS D.)
DAVIS; RAMONA DAVIS; WILLIAM K.)
DAVIS; DIANE R. DAVIS; WILLIAM K.)

CASE NO. 3:09-cv-00713

**ORDER GRANTING
DEFENDANTS RE/MAX REALTY
PROFESSIONALS AND JUDY
ASHTON'S MOTION FOR GOOD
FAITH DETERMINATION**

Law Offices of
OLSON, CANNON, GORMLEY & DESRUISSEAU
A Professional Corporation
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 384-4012 Telecopier (702) 383-0701

Law Office of
 OLSON, CANNON, CORMLEY & DESRUISSEAU
 Attorneys at Law
 990 West Cheyenne Avenue
 Las Vegas, Nevada 89129
 (702) 384-4012 Telecopier (702) 381-0701

1 DAVIS and DIANE R. DAVIS, individually and)
 2 on behalf of their minor child, FELICIA R.)
 3 DAVIS; J. WENDELL DAVIS; LORRAINE C.)
 4 DAVIS; PAMELA M. DOERR; JOHN E.)
 5 DOHM; DONNA L. DOHM; PATRICK DOYLE;)
 6 LORI DOYLE; PATRICK and LORI DOYLE,)
 7 individually and on behalf of their minor children,)
 8 JOSHUA DOYLE and TANNA DOYLE;)
 9 SHERRE GONZALES; JEREMY GOTTLIEB;)
 10 WARREN GRAY; BARBARA GRAY; DARYL)
 11 R. GROVER, JR.; DARYL R. GROVER, JR.,)
 12 individually and on behalf of his minor child,)
 13 PATRICK GROVER; RICHARD HARGETT;)
 14 LINDA HARGETT; ROSEMARY HIGGINS;)
 15 ROLF G. HODAPP; MICHAEL A.)
 16 HUMPHREY; KIM JAMES; MICHAEL JONES;)
 17 KILITA JONES; MANFRED JURGEIT; JEANIE)
 18 JURGEIT; LYNN KANTOR; DAN KANTOR;)
 19 LINDA KANTOR; BRANDON KNAPP;)
 20 TRACY KNAPP; JUSTIN KNOX; CHERIE)
 21 KNOX; JUSTIN and CHERIE KNOX,)
 22 individually and on behalf of their minor child,)
 23 CORA KNOX; PHILIP KNOX; SUZANNE)
 24 KNOX; JULIE LANE; DAN LAWSON;)
 25 LORRAINE LAWSON; LESLIE LEVERETT;)
 26 ESTHER LEVINE; JOHN LINDENMEIER; LEO)
 27 LINDENMEIER; NANCY LINDENMEIER;)
 28 LEZLIE M. LUCAS; JASON E. MARICH;)
 DAVID C. MARSHALL; LEROY MARX;)
 LEROY MARX, individually and on behalf of his)
 minor child, DESTINY MARX; MELANIE)
 McADAM; HILLARY McADAM; ROBERT)
 McADAM; WESLEY McKNIGHT; KATHLEEN)
 McKNIGHT; GARY R. MEIKLE; CARMEN)
 MEIKLE; LARRY MEIKLE; TERRI MEIKLE;)
 RICHARD MEPPEN; FRED MESI; BETTY)
 MESI; ERIC MESI; DENNIS MORELLI;)
 MARCIA MORELLI; DIANNE MORSE;)
 BRUCE E. NAGEL; JEANNETTE M. NAGEL;)
 JOSEPH NEFF; MELISSA NEFF; JOSEPH and)
 MELISSA NEFF, individually and on behalf of)
 their minor children, SEAN R. NEFF and)
 KATELYN NEFF; ADRIAN NORIEGA; MARY)
 NORIEGA; ADRIAN and MARY NORIEGA,)
 individually and on behalf of their minor children,)
 ASA NORIEGA, ADRIANA NORIEGA,)
 ANDREW NORIEGA and AUSTIN NORIEGA;)
 TRAVIS PATTERSON; JENNIFER)
 PATTERSON; BRIAN PEAVEY; CRISTINA)
 PEREZ; CHARLES J. PRESNELL; RUSSELL L.)
 PUCKETT; PABLO QUINTERO; PABLO)
 QUINTERO and JEMMELY ALMARIO,)
 individually and on behalf of their minor children,)
 JEMADREA QUINTERO, JESSALYN)
 QUINTERO and PABLO F. QUINTERO, JR.;)

Law Office of
OLSON, CANNON, GORMLEY & DESRUISSEAU
 A Professional Corporation
 9910 West Cheyenne Avenue
 Las Vegas, Nevada 89129
 (702) 384-4012 Telecopier (702) 383-0701

JAMES REED; TERESA REED; JAMES and
 TERESA REED, individually and on behalf of
 their minor children, JULIAN REED and ALEXIS
 REED; BERT REINSMA; PATRICIA
 REINSMA; JESUS RODRIGUEZ; MONICA
 RODRIGUEZ; JESUS and MONICA
 RODRIGUEZ, individually and on behalf of their
 minor children, JESUS RODRIGUEZ, JR.,
 JOSUE RODRIGUEZ; LIBNI RODRIGUEZ;
 SIRIA RODRIGUEZ; FRANK ROGERS;
 JUDITH ROGERS; LUIS M. ROJAS; GLORIA
 M. ROJAS; LUIS J. ROJAS; PATRICIA A.
 ROJAS; GARY ROMA; H. LANE ROSE, II;
 DEBORAH SUE ROSE; DAVID SHIELDS;
 RHONDA SHIELDS; DAVID SHIELDS, JR.;
 DAVID SHIELDS, JR., individually and on behalf
 of his minor child, ANNALYSE HOPE
 SHIELDS; DANIEL SOLACHE; BARBARA D.
 SPECCHIO; JOSEPH A. SPECCHIO, JR.;
 SPRACKLIN HOMES; SPRACKLIN
 CONSTRUCTION; SPRACKLIN TILE &
 STONE; SCOTT SPRACKLIN; DENISE
 SPRACKLIN; WESLEY STALIONS; MISTY
 STALIONS; WESLEY and MISTY STALIONS,
 individually and on behalf of their minor child,
 ANGELICA B. STALIONS; RANDALL
 STAUBS; STEVIE STAUBS; DAVID
 STEPHAN; LINDA STEPHEN; DAVID and
 LINDA STEPHAN, individually and on behalf of
 their minor children, HALEY STEPHAN and
 JOHN STEPHAN; EDWARD J. STEVENS;
 CONNIE STEVENS; DEREK TAYLOR;
 JENNIFER TAYLOR; DEREK and JENNIFER
 TAYLOR, individually and on behalf of their
 minor children, ISABEL TAYLOR and CONNOR
 TAYLOR; MICHAEL TEETER; KIM
 THROCKMORTON; JIM THROCKMORTON;
 KIM and JIM THROCKMORTON, individually
 and on behalf of their minor children, BRAD
 BEATON and KYLE THROCKMORTON;
 DAVID M. TRIPP; VIRGINIA TRIPP;
 JENNIFER VAUGHAN; JENNIFER
 VAUGHAN, individually and on behalf of her
 minor children, TOMMY HAYES and AUSTIN
 VAUGHAN; WES W.R. WARN; ROLAINÉ
 WARN; BARBARA WILSON and ROBERT
 WILSON, on behalf of themselves and all other
 persons similarly situated,

Plaintiffs,

v.

UNITED STATES OF AMERICA,
 DEPARTMENT OF THE INTERIOR through its

1 BUREAU OF RECLAMATION, MID-PACIFIC)
 2 REGION, CARSON CITY OFFICE, KEN)
 3 SALAZAR, Secretary of the Interior, KENNETH)
 4 PARR, Director of the Carson City Office of the)
 5 Bureau of Reclamation, TRUCKEE-CARSON)
 6 IRRIGATION DISTRICT, DAVID P.)
 7 OVERVOLD, CITY OF FERNLEY, COUNTY)
 8 OF LYON, CHRH, LTD.; GARY HUTCHINGS,)
 9 RICHARD HUTCHINGS, C.A.L. INVESTMENT)
 10 PROPERTIES, KING CONSTRUCTION, CAL)
 11 EILRICH, DINAH EILRICH, GREATER)
 12 NEVADA BUILDERS, STEVEN F. CAMPOY,)
 13 CRISP DEVELOPMENT, INC., V POINT)
 14 ENGINEERING AKA TRC ENGINEERING)
 15 INC., MARTIN UGALDE, ROBERT BIDART,)
 16 MICHAEL BIDART, KEYSTONE REALTY,)
 17 REMAX REALTY, JUDY ASHTON, DAN)
 18 ANDERSON, LL REALTY, and COLDWELL)
 19 BANKER (Fernley, Nevada),)
 20)
 21)
 22)
 23)
 24)
 25)
 26)
 27)
 28)

Defendants.

**ORDER GRANTING DEFENDANTS RE/MAX
 REALTY PROFESSIONALS AND JUDY ASHTON'S
 MOTION FOR GOOD FAITH DETERMINATION**

Defendants REALTY PROFESSIONALS, INC. doing business as RE/MAX REALTY PROFESSIONALS ("RE/MAX Realty Professionals") and JUDY ASHTON's ("Ashton") (collectively "RE/MAX Realty Professionals Defendants") Motion for Good Faith Determination having come on for hearing on the 29th day of July, 2011, Zachary J. Thompson, Esq. of the law firm OLSON, CANNON, GORMLEY & DESRUISSEAU appearing on behalf of the RE/MAX Realty Professionals Defendants, and Robert Maddox of the law firm of MADDOX & ASSOCIATES, Calvin R.X. Dunlap, of the firm of DUNLAP & LAXALT, Eugene Leverty, LEVERTY & ASSOCIATES, Robert Hager of the firm HAGER & HEARNE, and Lee Hotchkins, Esq. appearing on behalf of the Plaintiff class, and the Court having considered the papers and pleadings on file herein, and having heard oral argument,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The Court has considered the factors discussed in *Velsicol Chemical Corp. v. Davidson*, 107 Nev. 356, 811 P.2d 561 (1991).

1 2. The Court has considered the factors discussed in *The Doctors Co. v. Vincent*, 120
2 Nev. 644, 652, 98 P.3d 681, 687 (2004).

3 3. The Court has considered the factors discussed in *MGM Grand Hotel Fire*, 570
4 F.Supp. 913 (D.Nev. 1983).

5 4. The Court has considered the settlement amount of \$12,000 between Plaintiffs and
6 the RE/MAX Realty Professionals Defendants, which is to be paid from insurance funds. The
7 Court finds that the settlement amount is reasonable and sufficient.

8 5. The Court has considered the damages claimed by Plaintiffs, and it has considered
9 the risks of proceeding on both sides. The Court finds that there is a strong potential that
10 RE/MAX Realty Professionals and Ashton would be able to prevail against the Plaintiffs' claims
11 pursuant to NRS Chapter 645.

12 6. The Court has considered whether there was collusion or fraud relating to the
13 settlement. The Court finds that there was no collusion or fraud relating to the settlement between
14 Plaintiffs and RE/MAX Realty Professionals. The settlement amount was arrived at through arms
15 length negotiations.

16 7. The Court has considered the financial condition of the settling defendants and the
17 insurance coverage of the settling defendants. RE/MAX Realty Professionals is a defunct Nevada
18 corporation. The entity is insured, and the insurance is sufficient to cover the settlement. The
19 Court finds the settlement amount reasonable and sufficient in light of the insurance coverage.

20 8. The Court has considered the strength and weaknesses of potential contribution
21 and indemnity claims. The Court holds that the RE/MAX Realty Professionals Defendants
22 would be able to show that they did not have active fault. The Court finds that potential claims
23 for contribution and equitable indemnity do not weigh in favor of denying good faith.

24 9. The settlement agreement between Plaintiffs and the RE/MAX Realty
25 Professionals Defendants satisfies the factors set forth in *Velsicol Chemical Corp. v. Davidson*,
26 107 Nev. 356, 811 P.2d 561 (1991), *The Doctors Co. v. Vincent*, 120 Nev. 644, 652, 98 P.3d 681,
27 687 (2004), and *MGM Grand Hotel Fire*, 570 F.Supp. 913 (D.Nev. 1983).
28 ...

1 10. The settlement agreement between Plaintiffs and the RE/MAX Realty
2 Professionals Defendants was entered into in good faith.

3 11. No opposition, written or oral, was received to RE/MAX Realty Professionals
4 Defendants' Motion for Good Faith Determination.

5 12. The RE/MAX Realty Professionals Defendants' Motion for Good Faith
6 Determination is hereby granted in its entirety.

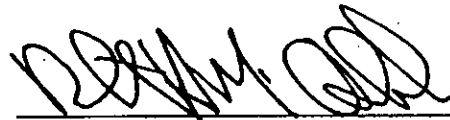
7 13. All claims, whether known or unknown, against RE/MAX Realty Professionals
8 Defendants for contribution and/or equitable indemnity are hereby extinguished pursuant to NRS
9 17.245.

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

11 1. RE/MAX Realty Professionals and Judy Ashton's Motion for Good Faith
12 Determination is hereby granted, each party to bear their own attorneys' fees and costs;

13 2. All claims, whether known or unknown, against RE/MAX Realty Professionals
14 and Judy Ashton for contribution and/or equitable indemnity are hereby extinguished.

15 DATED this 15th day of November, 2011.

16 

17 UNITED STATES MAGISTRATE JUDGE

18
19 SUBMITTED BY:

20 OLSON, CANNON, GORMLEY &
21 DESRUISSEAUX

22
23 By

24 MICHAEL E. STOBERSKI, ESQ.
25 Nevada Bar No. 004762
26 ZACHARY J. THOMPSON, ESQ.
27 Nevada Bar No. 011001
28 9950 West Cheyenne Avenue
 Las Vegas, Nevada 89129
 Attorneys for Defendants RE/MAX REALTY
 and JUDY ASHTON